IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 582 OF 2005

Joseph Dias & Ors. .. Petitioners

V/s

Vinod Pandey & Ors. .. Respondents

Mr.Majid Memon with Mr.Basil Menezes for the Petitioners.

Mr.Satish Maneshinde with Ms.N.S. Nappinai for Respondent No.1.

Mr.Janak Dwarkadas with Mr.P.K. Samdani i/b Wadia Ghandy & Co. for Respondent No.2.

Mr.M.S. Karnik with Mr.Kiran Kandpile for Respondent No.3.

WITH

WRIT PETITION (L) NO.585 OF 2005

The Bombay Catholic Sabha & Anr. .. Petitioners

V/s

The Government of India & ors. .. Respondents

Mr.J. Reis with Mr. D. D'Mello for the Petitioners.

Mr.Satish Maneshinde with Ms.N.S. Nappinai for Respondent No.1.

Mr.Janak Dwarkadas with Mr.P.K. Samdani i/b Wadia Ghandy & Co. for Respondent No.2.

Mr.M.S. Karnik with Mr.Kiran Kandpile for Respondent No.3.

CORAM : H.L. GOKHALE &
S.C. DHARMADHIKARI, JJ.

DATE : 24TH FEBRUARY 2005

ORAL ORDER: (Per H.L. Gokhale, J.)

1. Writ Petition (L) No.582 of 2005 is filed by two individuals who claim to be office bearers of one Catholic Secular Forum. Writ Petition (L) No.585 of 2005 is filed by the Bombay Catholic Sabha, a Public Charitable Trust and its President. Both these petitions are about an Indian film made in English language by name "Sins", which is to be released tomorrow, i.e. Friday, 25th February 2005. Both these petitions are filed on the basis of the promotion material of this film and the news reports about the same as they have appeared in various newspapers as well as T.V. Channels. The Petitioners point out that in all this promotion material, there is a depiction of a catholic priest with a lady, both in a semi-nude condition. The lady is wearing a cross around her neck and the priest is holding a rosary and is in a priestly dress. It is submitted that this kind of vulgar depiction may bring down the institution of the priesthood and the church and it would lead to a wrong opinion about both of them. The advertising material is annexed to the petitions. It is submitted that it affects the sentiments of the catholic community which

is otherwise a peace living community. The petitions submit that though the film maker may have the freedom of expression, the limits of such freedom ought to be examined.

2. A reply has been filed by one Mr.Vinod Pandey, Respondent No.1, who is the Director of this film. In para 9 of this reply, it is stated that the story of the film is a fictional one and inspired by a true life incident reported in detail by the press. A reference is also made to some similar aberrations by priests which led to some court cases in the High Courts and to the Apex Court as well. At page 28 of this reply is annexed a synopsis of the story of the film. The film is about one William in his late thirties who is a priest in a small town. Rosemary, a young girl in her twenties, comes in his contact. Although he was initially just a benefactor to her, later on a deeper relationship develops between them. It leads to some kind of a feeling of guilt and self-persecution also, yet they are not in a position to keep away from each other and that leads to further relationship leading to three abortions of the lady and they become an object of gossip in the locality. Faced with this problem, William proposes that she should get married with some another person who will permit the relationship between

Rosemary and William. Such marriage is arranged, but Rosemary, who had initially agreed to such arrangement, starts appreciating the personality of her husband. She seeks freedom from William. Both of them elope to Mumbai. William does not approve of this development. He is of the view that Rosemary's mother is a conspirator and kills her. Subsequently, on his command the assailants attack Rosemary and she is also done to brutal death. The film ends in the sentence to death of William and in the court he makes an emotional confession to the bereaved husband of Rosemary.

3. In the reply, various other documents are annexed, but essentially though it is submitted that such problems are coming up, it is stated that this is a story of two individuals and this is something which can happen to anybody who takes a vow of celibacy to land into a problem of this type. It is submitted that the scenes, which are semi-nude or otherwise, were necessary and inasmuch as the main protagonist was a priest and his girl friend was a Christian girl, he is dressed in the Christian religious way and the lady is wearing the cross.

4. The film was viewed by the Censor Board and it recommended four cuts. The matter was carried in appeal

by the 1st Respondent and the Appellate Tribunal presided over by a retired lady High Court Judge allowed the appeal to the extent of part of one cut. The three cuts recommended by the Censor Board were directed to be executed. In one scene, the priest was supposed to be shown nude from behind. That scene has been excised. The film is to be released under 'A' Certificate.

5. Mr.Memon and Mr.Reis have reiterated the submissions made in the petitions and sought to quash the certification. Mr.Maneshinde, learned counsel for the Director, and Mr.Dwarkadas, learned counsel for the Distributor, submitted that there is nothing disparaging either about the religion or the church or the priesthood in the film. It is only as a part of the story that the scenes, which are objected by the Petitioners, appear in the film. They submitted that there is nothing disparaging and nor does the Director or the film maker have any such opinion nor do they intend to convey any criticism of the church or the priesthood in any manner whatsoever. Our attention was drawn particularly to the judgment of the Apex Court in the case of **Bobby Art International v. Om Pal Singh Hoon - (1996) 4 SCC 1**. That was a matter concerning the film "Bandit Queen". There was a rape scene in the film and there were a few scenes showing nudity. As far as

all those scenes are concerned, the Apex Court observed in para 28 of the judgment that the rape scene was shown to explain why Phoolan Devi became what she did and that rape and sex was not glorified in that film. The observations of the Apex Court in para 30 are very relevant which reads as follows:-

> "In sum, we should recognise the message of a serious film and apply this test to the individual scenes thereof: do they advance the message? If they do, they should be left alone, with only the caution of an 'A' certificate."

Para 31 of that judgment is equally important which reads as follows:-

> "A film that illustrates the consequences of a social evil necessarily must show that social evil. The guidelines must be interpreted in that light. No film that extols the social evil or encourages it is permissible, but a film that carries the message that the social evil is evil cannot be made impermissible on the ground that it depicts the social evil. At the same time, the depiction must be just sufficient for the purpose of the film. The drawing of the line is

best left to the sensibilities of the expert Tribunal. The Tribunal is a multi-member body. It is comprised of persons who gauge public reactions to films and, except in cases of stark breach of guidelines, should be permitted to go about its task."

6. Although the counsel for the parties did not refer to the guidelines for certification of film for public exhibition, we would like to refer to guideline No.2(x) and (xii). Guideline No.2(x) is in general about the scenes involving sexual violence against women like attempt to rape, rape or any form of molestation, but at the same time, it permits such scenes if they are germane to the theme provided they are reduced to the minimum. Guideline No.2(xii) lays down visuals or words contemptuous of racial, religious or other groups are not presented.

7. Having heard the counsel for the Petitioners as well as the Respondents and having noted the story-line of the film, we find that it is a serious film concerned with two individuals as rightly pointed out by Mr.Dwarkadas. As per the story, the gentleman happens to be a catholic priest. He could have been a priest following celibacy belonging to any other religion. He

gets involved in a lady and that involvement develops further and the film finally ends with a retribution during the life time of the person concerned. As observed in the judgment in the case of Bandit Queen, adult Indian citizens as a whole may be relied upon to comprehend intelligently the message and to react to it, and not to the possible titilation of some particular scenes. From the story-line, which we have reproduced, we do not find that the intention of the film maker is in any way to bring down the institution of the priesthood or that of the church. They have stood the test of time and no such attempts will bring down their contribution to the society at large. The film has to be seen as a whole as has been stated from time to time and the standard of a reasonable man is to be applied. Inasmuch as the Censor Board and the Appellate Tribunal have arrived at their decision, which we do not find in any way perverse or irrational, we do not think that we should interfere into the decision that they have arrived at. Both the petitions, therefore, stand dismissed.

(H.L. GOKHALE, J.)

(S.C. DHARMADHIKARI, J.)